

The 20th October, 1981

No. 9(1)81-6Lab./12250.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Bhiwani Textile Mills, Bhiwani.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD

Complaint No. 46 of 1978 under section 33-A of the Industrial Disputes Act, 1947

between

SHRI DURJAN SINGH, COMPLAINANT AND THE MANAGEMENT OF M/S. BHIWANI
TEXTILE MILLS, BHIWANI

Present :—

Shri S. R. Gupta, for the complainant.

Shri B. R. Dhaliya, for the management.

AWARD

That present complaint was filed by Shri Durjan Singh, a workman, for adversely changing his conditions of service by the management during the pendency of reference number 95 and 106 of 1977. Notice of the complaint was sent to the management who appeared and filed a written reply. On the pleadings the following issues were framed by my learned predecessor on 28th August, 1978:—

- (1) Whether the complaint is incompetent and not maintainable ?
- (2) Whether the service conditions of the workman have been changed ? If so, to what effect ?
- (3) Relief.

Evidence was led by the parties. The complainant examined himself as WW-1 and Shri Jagdish, a workman of the management, as WW-2 and closed his case. The management examined Shri Raj Kumar, their Assistant Head Time-keeper, as MW-1 and closed its case. Arguments were heard. Now I give my finding issueswise:—

Issue No. 1.—This issue was not pressed by the management, nor any evidence was led on the issue, therefore, this issue is decided against the management.

Issue No. 2.—WW-1 the complainant stated that he was working in the mill for the last 13 years. He was a four plain looms weaver and getting Rs. 275 as average wages. Plain looms were stopped and instead automatic looms were installed. He was not given work on automatic looms, but was given the work of a Safaiwala and got work only for nine days during a month. His earnings came down to Rs. 150 per month. In cross-examination he stated that the looms were converted about 4—5 years back. At that time he was a badli workman. At present he was a permanent workman as a Safaiwala. He got Rs. 371 as wages in case he attended full month. He also used to work some time as Safaiwala when plain looms were in operation. WW-2 stated that no plain looms were working in the mills those days instead auto looms were installed. He knew the complainant. He used to work on plain looms. After stopping of plain looms earning of the complainant got reduced by Rs. 150 per month. In cross-examination he stated that he saw pass of the complainant in the year 1971 to 1973. He admitted that the complainant used to receive Rs. 250 as average wages per month.

MW-1 stated that the complainant was badli weaver. He was never made permanent. He was working as a Safaiwala for the last one year. There was no effect in his wages. He was made Safaiwala on his own request. In cross-examination he stated that plain looms were in operation during 1976. These looms converted in 1977 and in the beginning of 1978. He further stated that he had brought pay sheet of the workman for the years 1977 and 1978. He admitted that the complainant was shown as badli from January to June, 1977. His weekly rest was shown as Sunday. He worked in January for 24 days, February for 22 days, March for 24 days, April for 18 days, May for 21 days and in June for 16 days. In January he received Rs. 263.71, in February Rs. 240.79, in March Rs. 247.30, in April Rs. 192.38, in May, Rs. 231.80 and in June received Rs. 172.68. In April he remained on leave for 6 days, in May for five days, and in June for nine days. In the month of July he worked for 22 days. In January, 1978, he worked for 14 days, in February for 9 days, in March for 17 days and in April for 23 days. The workman earned Rs. 164.20 in January, 1978, Rs. 114.67 in February 1978, Rs. 215.75 in March, 1978 and Rs. 262.25 in April, 1978.

The learned representative for the complainant argued that he was getting Rs. 350 average wages after change he got only Rs. 250. His days of work were also reduced by the change. The learned representative for the management argued that he was a badli workman with no condition of service and his income, therefore, used to fluctuate.

I have considered the statement of the workman and find that he used to receive only Rs. 275 as average pay and stated that the same was reduced to Rs. 150 per mensem. This fact is not correct according to the pay sheets produced by Shri Raj Kumar MW-1. The complainant has failed to establish that he was getting Rs 350 per mensem as shown in his complaint. I find that he was getting the same average wages after the conversion of locum. He could get about Rs. 350 in case he worked for the whole month. Therefore, this issue is decided in favour of the management and against the complainant.

Issue No. 3.—The workman is not entitled to any relief.

On the findings given by me on issue No. 2 and 3 the complainant is dismissed.

Dated the 29th September, 1981.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 897, dated the 30th September, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 9(1)81-6 Lab./12252.—In pursuance of provisions of section 17 of the Industrial Disputes Act, 1947 (Act XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Bhiwani Textile Mills, Bhiwani.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Complaint No. 1 of 1978 under section 33-A of the I.D. Act, 1947.

between

SHRI SAWAI SINGH COMPLAINANT AND THE MANAGEMENT OF M/S. BHIWANI TEXTILE MILLS, BHIWANI.

Present : Shri S.R. Gupta, for the complainant.
Shri B.R. Ghaiye for the management.

AWARD

The present complaint was filed by Shri Sawai Singh, a workman for adversely changing his conditions of service by the management during the pendency of reference number 95 and 106 of 1977. Notice of the complaint was sent to the management who appeared and filed a written reply. On the pleadings the following issues were framed by my learned predecessor on 28th August, 1978:—

1. Whether the complaint is incompetent and not maintainable ?
2. Whether the service condition of the workman have been changed ? If so, to what effect ?
3. Relief ?

Evidence was led by the parties. The complainant examined himself as WW-1 and Shri Ram Kishan a co-workman as WW-2. The management examined Shri Karam Singh, Chief Engineer, as MW-1 and Shri Raj Kumar, Assistant Head Time Keeper as MW-2. Arguments were heard. I now give my finding issueswise:—

Issue No. 1.—This issue was not pressed by the management, nor any evidence was led on the issue, therefore this issue is decided against the management.

Issue No. 2. - WW-1 stated that he joined service on 20th January, 1977 in the workshop. He was a Fitter till December, 1977. Ex. W-1 and W-2 were attendance card showing his designation as Fitter. Ex. W-3 was attendance card for the month of December, 1977 when the designation was struck off and made from Fitter to to Bandhani. He further stated that he was put to loss of Rs. 75 P.M. by the change. In cross examination he stated that he was a Bandhani workman at the time of entry into service. He was promoted as Fitter in the year 1975 but he did not have any pass for that year in his possession. He did not get any increase in wages when he was promoted as Fitter. WW-2 stated that he knew the complainant who was working as Fitter. He further stated that the post of Fitter was considered as respectable than that of Bandhani. In cross examination he stated that the complainant was working as Turbine Attendant.

MW-1 stated that in the year 1977 the concerned workman was working as Bandhani. He did not work as Fitter. For the last 6-7 months he was working as Turbine Operator. He was never issued slip showing the workman to be a Fitter, nor he could say the reason of showing him as Fitter in Ex. W-1 to W-3. In cross-examination he stated that he could not give instance whether there was a difference in the actual work and designation given on the attendance card. He further replied that no register was kept showing work done by each workman of the department. He admitted that a Fitter was considered better in status and earnings than a Bandhani. MW-2 stated that the designation of the workman was Bandhani in the Engineering department, pay sheets of 1977. He was never issued orders for making the workman as Fitter. In cross examination he admitted that the attendance card Ex. W-1 to W-3 were issued by the Time Keeper of the management. He also admitted that such cards were issued every month to workers. He also admitted that in November, 1977 the workman was shown in the pay sheet as Fitter and the same entry appeared from June, 1977 to November, 1977. In December the word Fitter was struck off and instead Bandhani appeared. No order was shown for changing the designation in the hands of the Time Keeper at the relevant entry.

The learned representative for the workman argued that he had proved that the workman was designated as Fitter and the change was a prejudicial to him. On behalf of the management Shri B.R. Ghaiye the learned representative argued that there was no adverse affect in the wages of the workman. He further argued that the designation was changed by oversight.

I have gone through the attendance cards Ex. W-1 to W-3 and find that the designation of the complainant was clearly shown as Fitter on Ex. W-1 and W-2 whereas designation Fitter was struck off and instead Bandhani was written. The management witnesses have also admitted in their statements that the designation of Fitter was considered better in terms of status and earnings. I find that the management has altered to the prejudice of the workman the condition of service applicable to him during the pendency of the above stated references. Therefore, I hold that the service conditions of the workmen have been changed and decide this issue against the management.

Issue No. 3. - On the findings given by me on issue No. 2, I give my award that the workman was entitled to be designated as Fitter as in November 1977. He is entitled to the same benefits in the month of December, 1977 and onwards. I order accordingly.

Dated the 29th September, 1981.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 895, dated the 30th September, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 9th November, 1981

No. 9(1)81-6 Lab./12358.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Indomalt Processors Pvt. Ltd., Murthal, District Sonapat.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Complaint No. 1 of 1981 under section 33-A of the Industrial Disputes Act, 1947

between

SHRI SUBHASH WORKMAN AND THE MANAGEMENT OF M/S. INDOMALT PROCESSORS
PRIVATE LTD., MURTHAL, DISTRICT SONEPAT

AWARD

The present complaint was filed against the management that the services of the complainant were terminated during the pendency of reference number 283 of 1979. Notice was sent to the management who appeared and filed a written statement. On the pleadings following issues were framed :—

1. Whether there was no pendency of any Industrial Dispute at the time of dismissal ?
2. Whether the complainant is a workman concerned ?
3. Whether the complaint is barred on the ground of laches ?
4. Whether there has been violation of section 33-A of the Industrial Disputes Act ?

And the case was fixed for the evidence of the workman who examined himself as WW-1 who stated that the union had raised a demand,—vide Ex. W-1 which was pending adjudication. He was chargesheeted by the management and his services were terminated. In cross-examination he stated that his services were terminated in 1979. He was called for domestic enquiry but enquiry was not held properly. He received copies of proceedings. He denied that he filed the present complaint on 13th March, 1981. He also denied signature on his complaint.

The management in view of denial of filing the present complaint and signature by the complainant did not lead any evidence. *Ex parte* arguments were heard, because the workman or his representative was not present on the last two adjournments.

I have considered the contention raised by the learned representative for the management that in the absence of support of the complainant the present complaint had become bad for adjudication. I agree with the contention because of the peculiar statement of the complainant. The complaint is, therefore, dismissed.

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Dated, the 30th September, 1981.

M. C. BHARDWAJ,
Presiding Officer
Industrial Tribunal, Haryana, Faridabad.

No. 908, dated 1st October, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 9(1)81-6Lab/12355.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Ram Dass Barkat Ram Modern Industrial Estate, Bahadurgarh.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 61 of 1980

between

THE WORKMEN AND THE MANAGEMENT OF M/S. RAM DASS-BARKAT RAM,
MODERN INDUSTRIAL ESTATE, BAHADURGARH

Present:

None, for the workmen.

Shri M.M. Kaushal for the management.

AWARD

By order No. ID/RTK/107-80/56934, dated 18th November, 1980, the Governor of Haryana referred the following disputes between the management of M/s. Ram Dass-Barkat Ram, Modern Industrial Estate, Bahadurgarh and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

1. Whether the attendance card should be supplied to the workmen ? If so, with what details ?
2. Whether Sarvshri Modi Singh, Parma Nand, Baljeet, Raj Singh and Puran Singh should be granted annual increments as have been allowed to other workmen ? If so, with what details ?
3. Whether the workmen are entitled to the grant of house rent allowance ? If so, with what details ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, issues were framed and the case was fixed for the evidence of the workmen. The workmen did not appear, therefore, they were proceeded *ex-parte* and *ex-parte* evidence of the management was recorded who examined Shri Deepak Bhasin Partner as MW-1 and closed its case. On the last date of hearing the management filed a settlement Ex-M-1. According to the settlement there will be increase in the wages of the workmen with effect from 1st July, 1981. Increase will be as under :—

1. Workers of 1 to 5 years service will get an increase of Rs. 15, from 5 to 10 years service Rs. 25, above 10 years service Rs. 30.
2. Increment will be given per existing practice.
3. It was also agreed that wages shall be paid according to Minimum Wages Act but there will be difference in the wages of the workmen who had completed five years service at Rs. 3.50 per year.
4. Regarding bonus it was decided that the workmen will get bonus at 8.33% for the year 1980-81. It was further resolved that no other financial demand will be raised during the pendency of this settlement.

I pass my award in terms of the settlement.

Dated the 30th September, 1981.

(M.C. BHARDWAJ),
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 920, dated the 1st October, 1981.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

(M.C. BHARDWAJ),
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

The 16th November, 1981

No. 9(1)81-6Lab./12502.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. J.M. A. Industries Ltd., Faridabad :—

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD

Reference No. 8 of 1979

between

SHRI SHARDA PARSHAD, WORKMAN AND THE MANAGEMENT OF M/S. J.M.A. INDUSTRIES
LTD., FARIDABAD

Present.—

Shri Yoginder Singh for the workman.
Shri S.L. Gupta, for the management.

AWARD

By order No. 36-C-77/78, dated 5th January, 1979 the Governor of Haryana referred the following dispute between the management of M/s. J.M.A. Industries Ltd., Faridabad and its workman Shri Sharda Parshad, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the dismissal of Shri Sharda Parshad was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 11th June, 1979:—

1. Whether the enquiry proceedings and the findings are proper and fair ?
2. Whether the dismissal of the workman was justified and in order ?
3. Relief.
4. Whether the workman is gainfully employed ? If so, to what effect ?

Evidence was led by the parties on issue No. 1 which was decided by my order dated 4th September, 1980 against the management and the parties were called upon to adduce their evidence on remaining issues. The management examined Shri B.P. Sharma as MW-2, Shri N.D. Gupta, Labour Officer of the management as MW-3 and Shri K.L. Bajaj, Officer on Special Duty of the management as MW-4. The workman examined himself as his own witness as WW-1, Shri Rewa Dhar as WW-2, Shri Ram Lot as WW-2 and Shri Mulakh Ram as WW-4 and closed his case. Arguments were heard. Now, I give my finding issuewise:—

Issue No. 2.—MW-2 stated that he served the management from 1967 to 1973 as Superintendent Electro-plating Shop. The concerned workman worked under him. On 27th September, 1976 at about 11-00 A.M. when he went on his round inside the shop he found the workman sitting idle. He asked the workman that why he was sitting idle. He also told him that his work was not upto the mark and the rejection was also high. The workman grumbled something which could not be made out and told that witness was after him. The witness further stated that he returned to his office. After 5—7 minutes later the workman also entered the office after opening the door he was in angry mood and asked that why the witness was making complaints against him. He also told that he will die a death of a dog although he was a Brahman. The workman was asked to speak politely and properly. But he told to see the witness outside. This matter was reported to the Factory Manager. His report was Ex. M-14. On 29th September, 1976 when the witness went for his duty he found the work to be normal. After lunch at 10-30 A.M. the concerned workman asked others not to restart work. The workers were persuaded to work. Some of them started work at 1-00 P.M., 2nd shift also did not start work in sympathy of others. In cross-examination he stated that he was alone when he entered his office. He did not take any action against other workmen for their action of 27th September, 1976. He further told that other workmen had resorted to tool down because the management was taking action against the concerned workman. He did not see Sharda Parshad inciting others but they had told him that till the case of the concerned workman was not decided they will not start work. He admitted that the concerned workman did not extend any threat outside the factory. MW-3 stated that Ex. M-15 and M-16 were offered to the workman but he refused to receive which were sent by registered post by covering letter Ex. M-17 and M-18. Letters were received back undelivered which were Ex. M-19 to M-12. He was issued chargesheet Ex. M-22. The past record of the workman was not satisfactory as he was given letters Ex. M-23 to M-25 previously. These bear the signatures of the workman. Letter Ex. M-26 was sent by registered post—vide Ex. M-27 which was received back undelivered and was Ex. M-28. In cross-examination he stated that his department dealt in correspondence with workmen. Letter Ex. M-15 was offered to the workman by his Assistant Shri Ravi Gupta whose remarks appear at point A. It was issued under signatures of the Factory Manager. MW-4 stated that he was serving in the security office performed by Security Service Bureau, New Delhi under contract. Security office was situated at the main gate. On 29th September, 1976 he saw an assembly of workmen outside the factory gate. Shri Sharda Parshad the concerned workman was telling other workmen that he had been placed under suspension by the management and therefore, all of them should resort to strike so that the management was forced to take him back on duty. After lunch break all the workmen went inside except Sharda Parshad. When other workmen came for the 2nd shift the workman told them also to resort to strike. He also thanked the workmen of the first shift. In cross-examination he stated that he did not recollect the names of other workmen, though he knew many of them. The concerned workman was talking with other workers at a distance of 3-4 yards from him. MW-5 stated that he brought the attendance register on 29th September, 1976. On that date in polishing department first shift was shown as present in the first half and second half was shown as tool down. Second Shift was also shown as tool down.

MW-1 stated that he was Operator from 20th August, 1969 at Rs. 140 p.m. There was a shop council which used to settle disputes of workmen. The witness was a member from his department. He had raised a demand notice copy Ex. W-3 in August, 1976. He went to the factory on 25th September, 1976 on overtime duty as it was Sunday. He claimed overtime allowance which the Engineer refused saying that there was no practice instead compensatory leave will be granted. This was not acceptable to the workman, therefore, he was not taken on duty by the management on 29th. He further stated Shri V.P. Sharma used to sit in a cabin which had a transparent glass and a peon used to sit by the door. He was never issued any show-cause notice. In cross-examination he stated that he had received Ex. M-2 by registered post. He denied that he went inside Mr. Sharma's cabin on 27th September, 1976. On 29th September, 1976, Shri Bajaj, Security Officer was in the cabin but he denied that he had got the production of the department stopped on 29th September, 1976. WW-2 corroborated the statement of WW-1. In cross-examination he stated that on 29th September, 1976, Shri Sharda Parshad was stopped at the gate. He was not given any chargesheet. He further stated that they all had planned not to resume their duty till they will not be given overtime allowance. But he had did not know the opinion of Shri Sharda Parshad. He further stated that Shri Sharda Parshad entered the cabin of Shri Sharma. WW-3 also supported the version of WW-1 but in cross-examination he stated that on 29th September, 1976, work in polishing department remained suspended after lunch. WW-4 stated that he was peon with Shri B. P. Sharma in 1976. The concerned workman did not come to the cabin of Shri Sharma between 11.00 and 11.30. In cross-examination he stated that he did not know the day of last Diwali. He further stated that he did not know on 27th September, 1976 how many times Mr. Sharma went outside his cabin. He did not know if the concerned workman was present on his duty on 29th September, 1976. He also did not remember if work remained suspended in polishing department on 29th September, 1976 on half day. He did not know on what date the services of the workman were terminated.

The learned representative for the management argued that the charges against the workman were for:—(1) Refusal to accept communication from the management thereby contravening para 26(x) of the Certified Standing Orders, (2) Using abusive and filthy language against superior and threatening him thereby contravening clause 26 (K) of the Certified Standing Orders, (3) Inciting, instigating, abetting other workers to strike work thereby contravening clause 26(b) of the Certified Standing Orders, (4) Indulging in acts subversive of good behaviour and discipline, thereby contravening para 26(1) of the Certified Standing Orders. And that the management witnesses had proved the allegations. On the other hand the learned representative for the workmen argued that the workman was victimised for his union activities. Chargesheet was issued after about one month of the alleged happening. He further argued that evidence of the management was not trustworthy.

I have gone through the chargesheet-cum-suspension order Ex. M-22 and find the above charges in it. The allegations are supported by complaint of Shri B.P. Sharma Ex. M-8. The complainant has appeared in the witness box as MW-2 and supported his complaint and version. He was no more in the management service. Other allegations were supported by MW-3 and MW-4. As regards MW-4 he was also not in the service of the management. As regards evidence of the workman I find that the concerned workman has denied his misbehaviour and intimidation towards MW-2. He has also denied any happening of 29th September, 1976 although WW-2 and WW-3 have supported the management version so far as stoppage of work was concerned. Therefore, I find that the management had proved the charges levelled against the workman. According to the Standing Orders Ex. M-13 the charges amounted to misconduct for which punishment may be dismissal. I do not find any mitigating circumstance to interfere in the quantum of punishment given by the management, therefore, find the order of dismissal in order. I decide this issue in favour of the management.

Issue No. 4.—The management did not lead any evidence on this issue, hence this issue is decided against the management.

Issue No. 3.—The workman is not entitled to any relief.

While answering the reference, I give my award that the dismissal of the workman was justified and in order. The workman is not entitled to any relief.

M.C. BHARDWAJ,

Dated 5th October, 1981.

Presiding Officer, Industrial
Tribunal, Haryana, Faridabad.

No. 929, dated 7th October, 1981.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

M.C. BHARDWAJ,

Presiding Officer, Industrial Tribunal,
Haryana, Faridabad.